

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

DERRICK DEANE,	:	
Petitioner,	:	Civ. No. 17-2718 (RBK)
v.	:	
UNITED STATES OF AMERICA, et al.,	:	MEMORANDUM & ORDER
Respondent.	:	

Petitioner, Derrick Deane, is a federal prisoner proceeding *pro se* with a petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2241. Petitioner challenges how the Federal Bureau of Prisons (“BOP”) is executing his sentence. More specifically, in his petition, he asserts that the BOP should have credited the time served on his federal sentence starting on December 13, 2013.

Respondent argues that the habeas petition is now moot because the BOP has recalculated petitioner’s federal sentence. However, the BOP only recalculated petitioner’s federal sentence, deeming it commencing on December 23, 2013, or ten days less than petitioner requests in his habeas petition. While the BOP’s recalculation may moot most of petitioner’s habeas petition, this Court is not entirely convinced by respondent’s argument that its recalculation to December 23, 2013 moots petitioner’s entire habeas petition, most notably the ten days between December 13, 2013 and December 23, 2013. Indeed, this Court finds respondent’s citation to *Greene v. Shartle*, No. 11-4752, 2011 WL 6722805 (D.N.J. Dec. 21, 2011) unpersuasive. In that case, the District Court expressly noted that petitioner was not entitled to an additional nineteen days credit to his sentence. Two of those days were not entitled to be counted pursuant to *Reno v. Koray*, 515 U.S. 50 (1995), eleven of those days had been

credited in the recalculation, and petitioner provided nothing to substantiate that he was in custody for the remaining six days. *See Greene*, 2011 WL 6722805, at *2 n.2. Respondent makes no such specific similar argument as it relates to the ten days at issue in petitioner's case. Therefore, this Court will order respondent to file a supplemental response to petitioner's habeas petition that expressly addresses on the merits why petitioner is not entitled to ten additional days of credit to his sentence (the period from December 13, 2013 to December 23, 2013).

Accordingly, IT IS this 10th day of July, 2018,

ORDERED that respondent shall file a supplemental response to petitioner's habeas petition within thirty (30) days of the date of this Order that expressly addresses on the merits why petitioner is not entitled to ten additional days credit on his federal sentence for the period from December 13, 2013 to December 23, 2013; and it is further

ORDERED that petitioner may file a supplemental reply to respondent's supplement response within thirty (30) days of respondent's supplemental response filing; and it is further ORDERDED that the Clerk shall serve this Order on petitioner by regular U.S. mail.

s/Robert B. Kugler
ROBERT B. KUGLER
United States District Judge